US DISTRICT COURT
NORTHERN DIST. OF TX
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AO 88B (Rev. 12/13) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (Page 2)

Civil Action No. 3:14-cv-3398-L

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* BANK OF AMERICA, NA

on *(date)* 02/01/2017 .

☑ I served the subpoena by delivering a copy to the named person as follows: by delivering to BANK OF AMERICA, NA, by delivering to its registered agent, CT Corporation System, by delivering to its authorized agent, Kelvin Bennett, at 1999 Bryan Street, Suite 900, Dallas, Texas 75201 on *(date)* 02/01/2017 ; or

☐ I returned the subpoena unexecuted because: ______ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of

$ ______ .

My fees are $ ______ for travel and $ ______ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: 02/06/2017

Server's signature

ADIL TADLI Authorized Person – SCH1206

Printed name and title

5470 LBJ Freeway, Suite 100
Dallas, Texas 75240

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) ***For a Trial, Hearing, or Deposition.*** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

(i) is a party or a party's officer; or

(ii) is commanded to attend a trial and would not incur substantial expense.

(2) ***For Other Discovery.*** A subpoena may command:

(A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and

(B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) ***Avoiding Undue Burden or Expense; Sanctions.*** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) ***Command to Produce Materials or Permit Inspection.***

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) ***Quashing or Modifying a Subpoena.***

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) ***Producing Documents or Electronically Stored Information.*** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) ***Claiming Privilege or Protection.***

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

For access to subpoena materials, see Fed. R. Civ. P. 45(a) Committee Note (2013).

ATTACHMENT A

DEFINITIONS

1. "Merrill Lynch," "you," and "your" means Bank of America, NA, Bank of America Merrill Lynch, any division of Bank of America known as Bank of America Merrill Lynch, or Merrill Lynch and as applicable, its employees, affiliates, parents, subsidiaries, agents, representatives, consultants, attorneys, and other persons acting or purporting to act in concert with or on its behalf.

2. "Companion" means Defendant Companion Property and Casualty Insurance Company n/k/a Sussex Insurance Company.

3. "Plaintiffs" means the named Plaintiffs in this action, *i.e.*, Highpoint Risk Services, LLC ("Highpoint") and/or Aspen Administrators, Inc. ("Aspen").

4. "Third-Party Defendants" means the named Third-Party Defendants in this action, *i.e.*, Charles David Wood, Jr. ("Wood"), AMS Staff Leasing, Inc. d/b/a AMS Staff Leasing Corporation ("AMS"), Breckenridge Enterprises, Inc. d/b/a AMS Staff Leasing II ("Breckenridge"), and/or AMS Staff Leasing II, Inc. ("AMS II").

5. "Highpoint," "Aspen," "Wood," "AMS," "Breckenridge," and "AMS II" shall refer to that Plaintiff or Third-Party Defendant.

6. "Highpoint Administrative Services" means Highpoint Administrative Services, Inc.

7. "Document" means the originals (or, if not available, true copies) and all non-identical copies (whether different from originals by reason of notations made on such copies or otherwise) of all emails (as defined below); correspondence, including customer correspondence; papers; brochures; circulars; advertisements; letters; memoranda; minutes; notes or records of

meeting; reports; comments; affidavits; statements; summaries; messages; worksheets; notes; correspondence; interviews; diaries; calendars; appointment books; registers; travel records; tables; calculations; books of account; budgets; bookkeeping or accounting records; telephone records; stenographic notes; financial data; receipts; financial statements; annual reports; accountants' work papers; analyses; forecasts; statistical or other projections; newspaper articles; press releases; publications; tabulations; graphs; charts; maps; telegrams; books; facsimiles; agreements; opinions or reports of experts or consultants; records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means; printouts or other electronically stored information from computers or other information retrieval systems; magnetic tapes; belts and disks; photographic matters or sound reproductions; all drafts and preliminary copies of any of the foregoing; and all other forms or types of written or printed matter or tangible things on which any words, phrases or numbers are affixed, however produced or reproduced and wherever located, which are in your possession, custody or control.

8. "Email" means all electronically stored communications, including, but not limited to, communications stored in an electronic mail program, including but not limited to Microsoft Outlook; communications stored in a remote or local email server, including but not limited to a Microsoft Exchange server; web accessible email accounts stored remotely; text messages; multi-media messages; instant messaging exchanges; and other electronic communications. This includes email for all email accounts controlled or used by you and any cell phone number used for email communications.

9. The phrase "Account Information" means any Document relating to the requested account(s) and/or account holder, including but not limited to account statements, checks, wires,

cancelled checks, cashier's checks, deposit checks, transfer records, and documents showing account numbers, records of authorized signatories, the transfer or movement, by wire or otherwise, of funds into or out of accounts, the account names and numbers from and to which a transfer or movement of funds was made, monthly, quarterly, or yearly records of account balances over time or at any one time, deposits, withdrawals, and any records of the opening or closing of accounts.

10. "And" as well as "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of these requests any information or documents which might otherwise be construed as outside their scope.

11. "Relating to" or "related to" or "concerning" or "involving" shall be construed to mean regarding, about, addressing, alluding to, analyzing, containing, consisting of, referring to, supporting, prepared in connection with, used in preparation for, commenting upon, memorializing, mentioning, noting, reflecting, or being in any way legally, logically or factually connected with or pertaining to, in whole or in part, the matter discussed.

INSTRUCTIONS

1. This Subpoena calls for the production of all Documents within your possession, custody or control.

2. The period covered by this Subpoena is from January 1, 2005 to present.

3. Each Document responsive to this Subpoena shall be produced in its entirety, along with any attachments, drafts, and non-identical copies, including copies that differ by virtue of handwritten notes or any other markings.

4. All Documents are to be produced as they are kept in the usual course of business so that Companion is able to ascertain the files in which the Documents were located, their

relative order in such files, and how such files were maintained. If a Document responsive to any of the requests is maintained in a file, the file folder shall be produced with the responsive Document.

5. Any Document that responds, in whole or in part, to any portion or subpart of these requests shall be produced. If there are no Documents responsive to a particular request, state so in writing.

6. If you claim that the attorney-client privilege or any other privilege or protection is applicable to any Document or written communication, you shall: (i) identify the Document or communication; (ii) identify each and every person who prepared or participated in the preparation of the Document or communication; (iii) state the present location of the Document or communication and all copies thereof; (iv) identify each and every person having possession, custody, or control of the Document or communication and all copies thereof; (v) state the privilege or protection claimed; and (vi) provide sufficient additional information concerning the Document or communication, and the circumstances thereof, to explain the basis for the claim of privilege or protection so as to permit the adjudication of the propriety of the claim.

7. All singular terms include the plural, all plural terms include the singular, and the use of a verb in any tense, mood, or voice shall be construed as the use of the verb in all other tenses, moods, or voices, whenever necessary to bring within the scope of any request all information that might otherwise be construed to be outside its scope.

8. These requests impose on you a continuing obligation. If you subsequently become aware of information or Documents that render your responses to these requests incomplete or inaccurate, you are required to supplement or amend your responses promptly to make such responses complete and accurate.

DOCUMENTS TO BE PRODUCED

Request No. 1. All Account Information related to Highpoint, Aspen, AMS, Breckenridge, and/or AMS II.

Request No. 2. All Account Information related to Wood.

Request No. 3. All Account Information related to Highpoint Administrative Services.

Request No. 4. All Account Information related to the following accounts at your institution:

a. Merrill Lynch account no. xxx7246; and

b. Merrill Lynch account no. xxx2168.

Request No. 5. All Account Information relating to any bank account in which Plaintiffs, Third-Party Defendants, and/or Highpoint Administrative Services possess or possessed any rights.

Request No. 6. To the extent not encompassed by Request Nos. 1 - 4 above, all Account Information for all accounts bearing the signatory authority of any Plaintiff or Third-Party Defendant.

Request No. 7. To the extent not encompassed by Request Nos. 1 - 4 above, all Account Information pertaining to all open or closed checking, savings, NOW, Time, or other deposit or checking accounts in the name of or under signature authority of any Plaintiff or Third-Party Defendant.

Request No. 8. To the extent not encompassed by Request Nos. 1 - 4 above, all Documents pertaining to open or closed bank loans or mortgage documents, reflecting loans made to or cosigned by any Plaintiff or Third-Party Defendant, including, but not limited to:

a. Loan applications

b. Corporate board authorization minutes or partnership resolutions

c. Loan ledger sheets

d. Documents (checks, debit memos, cash in tickets, wires in, etc.) reflecting the means by which loan repayments were made

e. Documents (bank checks, credit memos, cash out tickets, wires out, etc.) reflecting disbursement of the loan proceeds

f. Loan correspondence files including, but not limited to, letters to the bank, letters from the bank, notes, memoranda, etc. to the file

g. Collateral agreements and documents

h. Credit reports

i. Financial statements

j. Notes or other instruments reflecting the obligation to pay

k. Real estate mortgages, chattel mortgages, or other security instruments for loans

l. Forms 1099, 1089, or back-up withholding documents

m. Loan amortization statements.

Request No. 9. To the extent not encompassed by Request Nos. 1 - 4 above, all Documents pertaining to CDs purchased or redeemed by any of the Plaintiffs and/or Third-Party Defendants, including, but not limited to:

a. Copies of the certificates

b. Corporate board authorization minutes or partnership resolutions

c. Documents (checks, debit memos, cash in tickets, wires in, etc.) reflecting the means by which the CD was purchased

d. Documents (bank checks, credit memos, cash out tickets, wires out, etc.) reflecting disbursement of the proceeds of any negotiated CD

e. Records reflecting interest earned, withdrawn or reinvested

f. Records reflecting roll-overs

g. Forms 1099, 1089, or back-up withholding documents.

Request No. 10. To the extent not encompassed by Request Nos. 1 - 4 above, all Documents pertaining to open or closed investment or security custodian accounts, IRA, Keogh, or other retirement plans in the name of the Plaintiffs and/or Third Party Defendants or for the benefit of any of the Plaintiffs and/or Third-Party Defendants, including, but not limited to:

a. Documents (checks, debit memos, cash in tickets, wires in, etc.) reflecting the means by which the security was purchased

b. Documents (bank checks, credit memos, cash out tickets, wires out, etc.) reflecting disbursement of the proceeds of any negotiated securities

c. Confirmation slips

d. Monthly statements

e. Payment receipts

f. Safekeeping records and logs

g. Receipts for receipt or delivery of securities

h. Forms 1099, 1089, or back-up withholding documents.

Request No. 11. To the extent not encompassed by Request Nos. 1 - 4 above, all Documents relating to all cashier's checks, managers' checks, bank checks, traveler's checks, and money orders purchased or negotiated by any of the Plaintiffs and/or Third-Party Defendants.

Request No. 12. To the extent not encompassed by Request Nos. 1 - 4 above, all Documents pertaining to wire transfers sent or received by any of the Plaintiffs and/or Third-Party Defendants, including, but not limited to:

a. Fed Wire, CHIPS, SWIFT, or other money transfer or message documents;

b. Documents (checks, debit memos, cash in tickets, wires in, etc.) reflecting the source of the funds wired out

c. Documents (bank checks, credit memos, cash out tickets, wires out, etc.) reflecting the ultimate disposition within the bank of the funds wired in

d. Notes, memoranda, or other writings pertaining to the sending or receipt of wire transfers.

Request No. 13. To the extent not encompassed by Request Nos. 1 - 4 above, all Documents relating to current or expired safe deposit box rentals by or under the signature authority of any of the Plaintiffs and/or Third-Party Defendants.

Request No. 14. To the extent not encompassed by Request Nos. 1 - 4 above, all Documents pertaining to open or closed bank credit cards in the name of or under the signatory authority of any of the Plaintiffs and/or Third-Party Defendants, including, but not limited to:

a. Applications for credit

b. Corporate board authorization minutes or partnership resolutions

c. Credit reports

d. Monthly statements

e. Financial statements

f. Charge tickets

g. Documents (checks, debit memos, cash in tickets, wires in, etc.) reflecting payments on the account

h. Correspondence files.

Request No. 15. To the extent not encompassed by Request Nos. 1 - 4 above, teller tapes reflecting all transactions between you and any of the Plaintiffs and/or Third Party Defendants.

Request No. 16. All CTRs (Form 4789) and CMIRs (Form 4790) filed with the Department of the Treasury, Internal Revenue Service, or the U.S. Customs Service by you between 2005 to the present concerning currency transactions conducted by or on behalf of the Plaintiffs and/or Third-Party Defendants.

Request No. 17. All Documents, if any, you have filed with the aforementioned federal agencies, the Drug Enforcement Administration, the Federal Bureau of Investigation, the Department of Justice, or any bank regulatory agency concerning transactions by, on behalf of, or involving any Plaintiff or Third-Party Defendant, including:

a. Criminal Referral Form (short form); Office of the Comptroller of the Currency (OCC)—OCC Form CC-8010-08

b. Criminal Referral Form (short form); The Board of Governors of the Federal Reserve System—Federal Reserve Form FR2230

c. Report of Apparent Crime (short form); Federal Deposit Insurance Corporation (FDIC)—FDIC Form 6710/06.

Request No. 18. Any and all "exemption lists," requests for exemptions, and statements submitted in support of such requests filed with the Internal Revenue Service pursuant to 31 U.S.C. § 103.22 concerning any Plaintiff or Third-Party Defendant.

Request No. 19. Any and all correspondence, letters, or other Documents reflecting telephone conversations or meetings between you and any bank regulatory or federal law enforcement agency regarding suspicious transactions, suspicious accounting, pending investigations or ongoing investigations relating to any Plaintiff or Third-Party Defendant.

AO 88B (Rev. 12/13) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of Texas

HIGHPOINT RISK SERVICES, LLC, et al.
Plaintiff
v.
COMPANION PROPERTY AND CASUALTY INSURANCE COMPANY, et al.
Defendant

Civil Action No. 3:14-cv-3398-L

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: BANK OF AMERICA, NA, c/o its Registered Agent, CT Corporation System, 1999 Bryan St., Ste. 900, Dallas, Texas 75201

(Name of person to whom this subpoena is directed)

☑ *Production:* **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

SEE ATTACHMENT A

Place: Munsch Hardt Kopf & Harr, P.C., c/o Michael C. Lee 500 North Akard St., Ste. 3800, Dallas, TX 75201	Date and Time: 02/22/2017 10:00 am

❒ *Inspection of Premises:* **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 02/01/2017

CLERK OF COURT

_______________ OR _______________

Signature of Clerk or Deputy Clerk — *Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Defendant Companion Property and Casualty Insurance Company, who issues or requests this subpoena, are:

Michael C. Lee, Munsch Hardt Kopf & Harr, P.C., 500 N. Akard St., Ste. 3800, Dallas, TX 75201
mlee@munsch.com; 214-855-7500

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).